

STATE OF IOWA

TERRY BRANSTAD, GOVERNOR KIM REYNOLDS, LT. GOVERNOR IOWA BOARD OF MEDICINE
MARK BOWDEN, M.P.A., EXECUTIVE DIRECTOR

IOWA BOARD OF MEDICINE OCTOBER 27-28, 2016 BOARD MEETING OPEN MINUTES

THURSDAY, OCTOBER 27, 2016:

MEMBERS PRESENT: Diane Clark, Chair

Ronald Cheney, D.O., Vice Chair Kyle Ulveling, M.D., Secretary

Diane Cortese

Nicole Gilg Gachiani, M.D. Ronald Kolegraff, M.D.

KellyAnn Light-McGroary, M.D.

Mary Jo Romanco Charles Wadle, D.O.

MEMBERS ABSENT: Hamed Tewfik, M.D.

STAFF PRESENT: Mark Bowden, Executive Director

Kent Nebel, Director of Legal Affairs John Olds, M.D., Medical Advisor Aaron Kephart, Investigator

Brandi Allen, Investigator Dave McGlaughlin, Investigator Jennifer Huisman, Investigator Laura Wood, Investigator Steve Garrison, Investigator

Mary Knapp, Enforcement Monitor Natalie Sipes, Director of Licensure Kari Rolls, Administrative Assistant

Julie Bussanmas, Assistant Attorney General Jordan Esbrook, Assistant Attorney General

At 10:57 a.m., Diane Clark, Chair, called the meeting to order.

Mark Bowden, executive director, advised the Board to anticipate that there may a good turnout at the public session on Friday, October 28, 2016, due to an agenda item on sexual orientation change efforts. He said that the meeting may not follow the order of the agenda due to the scheduled presentation about the electronic death registration system from the Iowa Department

of Public Health's Bureau on Health Statistics. He also advised the Board that that there has been some technical difficulties with recording recent closed sessions, including the closed sessions at the September 15-16, 2016, meeting at Okoboji.

At 11:01 a.m., on a motion by KellyAnn Light-McGroary, M.D., seconded by Kyle Ulveling, M.D., all members present voted to meet in closed session, pursuant to Iowa Code Sections 21.5(1) "a," "d," and "f" for the purposes of reviewing investigative reports and other investigative material and discussing whether to initiate licensee disciplinary investigations or proceedings. Ronald Cheney, D.O., Diane Clark, Diane Cortese, Nicole Gilg Gachiani, M.D., Ronald Kolegraff, M.D., KellyAnn Light-McGroary, M.D., Mary Jo Romanco, Kyle Ulveling, M.D., and Charles Wadle, D.O., all voted aye in a roll call vote to approve the motion.

At 5:24 p.m., the Board met in open session and determined to adjourn until 8 a.m. Friday, October 28, 2016.

FRIDAY, OCTOBER 28, 2016:

MEMBERS PRESENT: Diane Clark, Chair

Ronald Cheney, D.O., Vice Chair Kyle Ulveling, M.D., Secretary

Diane Cortese

Nicole Gilg-Gachiani Ronald Kolegraff, M.D.

KellyAnn Light-McGroary, M.D.

Mary Jo Romanco Charles Wadle, D.O.

MEMBERS ABSENT: Hamed Tewfik, M.D.

STAFF PRESENT: Mark Bowden, Executive Director

Kent Nebel, Director of Legal Affairs John Olds, M.D., Medical Advisor Aaron Kephart, Investigator Brandi Allen, Investigator Jennifer Huisman, Investigator Laura Wood, Investigator

Steve Garrison, Investigator

Mary Knapp, Enforcement Monitor Natalie Sipes, Director of Licensure

Amy Van Maanen, Iowa Physician Health Program

Coordinator

Emily Zalasky, Iowa Physician Health Program Case Manager

Kari Rolls, Administrative Assistant

Chrissy Greco, Assistant to Executive Director Julie Bussanmas, Assistant Attorney General Jordan Esbrook, Assistant Attorney General

At 8:04 a.m., Diane Clark, chair, called the meeting to order. On a motion by KellyAnn Light-McGroary, M.D., seconded by Kyle Ulveling, M.D., all members present voted to meet in closed session, pursuant to Iowa Code Sections 21.5(1) "a," "d," and "f" for the purposes of reviewing investigative reports and other investigative material and discussing whether to initiate licensee disciplinary investigations or proceedings. Ronald Cheney, D.O., Diane Clark, Diane Cortese, Nicole Gilg Gachiani, M.D., Ronald Kolegraff, M.D., KellyAnn Light-McGroary, M.D., Mary Jo Romanco, Kyle Ulveling, M.D., and Charles Wadle, D.O., all voted aye in a roll call vote to approve the motion.

At 9:03 a.m., all members present voted in favor of a motion by Nicole Gilg Gachiani, M.D., seconded by Ronald Kolegraff, M.D., to meet in an open session to prepare for the open session/public meeting.

At 9:15 a.m., Diane Clark, Chair, called the open session/public meeting to order. A roll call was taken to establish a presence of a quorum of the Board. Members absent from the meeting: Hamed Tewfik, M.D.

Chair Clark asked public members to introduce themselves and thanked them for attending.

Opportunity for public comment

No comments made at this time.

Public in attendance

Leah McWilliams	Executive Director - Iowa Osteopathic Medical
	Association
Claire Kelly	Iowa Medical Society
Jennie Evans	Iowa Department of Public Health
Marvin Firch	Iowa Department of Public Health (Licensing)
Linda Thiesen	University of Iowa
Sandra Lyles	Iowa Department of Public Health (Licensing)
Melissa Bird	Iowa Department of Public Health
Susanne Gebel	Iowa Funeral Directors Association
Erica Shannon	Iowa Association of Rural Health Clinics
Chuck Hurley	The Family Leader
Timothy Foley	State of Iowa Youth Advisory Counsel
Payton Beaumier	State of Iowa Youth Advisory Counsel
Andrew Ounn	State of Iowa Youth Advisory Counsel

^{*}Minutes amended 12/19/16 to reflect attendance of Leah McWilliams.

Board minutes for consideration of approval

August 11, 2016 - teleconference, open

September 15-16, 2016 - Meeting, open and closed

September 30, 2016 - teleconference, open and closed

On a motion by Ronald Cheney, seconded by Nicole Gilg-Gachiani, the Board approved the open and closed minutes, as presented.

Board Chair Report

Chair Clark provided the following updates:

- The Board had a good meeting in Okoboji in September and met with some of the hospital/healthcare officials in that area of Iowa. The board meets every six weeks (7 times a year) and tries to hold one of the two-day meetings outside of Des Moines. Thanks to the board staff and Chrissy Greco and Shantel Billington for their work to arrange for the Okoboji meeting.
- The Board will receive an update at today's meeting from Dr. Wadle concerning the rule-making work being done by subcommittees of the Board of Medicine and Board of Psychology to allow certain psychologists to prescribe psychotropic medicines. The enabling legislation, Senate File 2188, calls for the Board of Medicine to appoint an Iowa physician to a rules subcommittee of the Board of Psychology. Chair Clark appointed Dr. Wadle to this new subcommittee.
- The Board will also receive an update at today's meeting on the status of joint rules with the Board of Physician Assistants. Chair Clark appointed Dr. Ulveling to serve on the Board of Medicine's subcommittee on rules regarding the appropriate supervision of a physician assistant.
- Update on Interstate Medical Licensure Committee The commission continues to lay the foundation for the issuance of expedited licenses in early 2017. The commission's next meeting is a teleconference call on November 7. Mark will provide more information on the status of the compact in today's meeting.

Executive Director's Report

Mr. Bowden provided the following updates:

- **BOARD FEES:** Staff is not recommending an increase in fees for licensure and other Board services in the fiscal year ending June 30, 2017. The Board annually reviews its fee schedule in September or October as directed by Iowa Code Section 147.80(2) to ensure that fees collected cover the agency's operating costs. The Board has not increased fees since FY2007. In FY2014, the Board reduced several fees, including medical residency licenses and criminal background checks for medical and acupuncture license applicants, and it eliminated most fees for copies of public records when the records can be delivered in electronic format. The Board does not receive a general fund allocation, but operates exclusively on fees from licensure. The Board's FY 2017 operating budget is \$4,609,861. Since FY2007, the Board has deposited \$887,500 in Iowa's General Fund from civil penalties collected in disciplinary actions.
- **INTERSTATE MEDICAL LICENSURE COMPACT:** The commission overseeing the implementation of the compact is projecting the expedited licensure process could begin in early 2017. Technology, administrative rules and member support are being developed to complement the streamlined licensure process. Pennsylvania enacted the compact on October 26, making it the 18th state to join the interstate agreement. Compact

legislation is being considered in other states this fall, and more states are expected to take it up in the 2017 legislative session. The compact creates an expedited process for qualified physicians seeking medical licenses in multiple states.

• **FEDERATION OF STATE MEDICAL BOARDS:** An FSMB workgroup on teambased regulation is seeking state board comment on a draft policy document concerning regulatory strategies for achieving greater cooperation and collaboration among health professional boards in carrying out their shared responsibility to protect the public. The workgroup will consider all comments received in drafting its final recommendations for submission to the FSMB Board of Directors in February 2017 and thereafter to the House of Delegates for consideration in April 2017.

Annual review of the Board's fees - Shantel Billington, financial/office manager

Provided budget and review of fees for 2017 and provided an opportunity for the Board to ask questions, to which there were none. She reported that the Board will soon be collecting a new fee related to the application process for expedited licensure through the Interstate Medical Licensure Compact. She said the identified "rollover" funds presented in the budget are anticipated to be consumed by ordinary expenses over the next two fiscal years. On a motion by Ronald Cheney, D.O., and a second by Kyle Ulveling, M.D., the Board voted to accept the staff's recommendation to maintain the current fee structure in fiscal year 2017.

Administrative rules

- Effective October 19, 2016 ARC2705C. This rulemaking amends 653 IAC Chapter 13 to update the list of board-recommended resources for chronic pain management, including the new CDC guideline on opioid prescribing.
- Effective October 19, 2016 ARC2706. This amendment to 653 IAC Chapter 25 addresses an outdated description of the composition of a board panel that hears contested case proceeding. The amendment was adopted and became effective October 19, 2016.

Acupuncture

- Julie Bussanmas, Assistant Attorney General, reviewed the District Court's denial of the petition for judicial review filed by the Iowa Association of Oriental Medicine and Acupuncture. The association sought review after it was unsuccessful in getting the Board of Physical & Occupational Therapy to declare that dry needling was acupuncture. The District Court concluded that Iowa physical therapists are authorized by law to perform dry needling.
- Kent Nebel, Director of Legal Affairs briefed the Board on a proposed amendment to the Board's proposed notice of intended action to update Chapter 17, Licensure of Acupuncture. The proposed amendment expresses that rules in Chapter 17 shall only apply to individuals licensed under chapter 148E.

On a motion by Ronald Cheney, D.O., seconded by Ronald Kolegraff, M.D., the Board approved proposed amendment as presented by Mr. Nebel. The proposed rulemaking to update Chapter 17, including the new amendment, will now be published in the December

7, 2016, Administrative Bulletin. A public hearing on the notice of intended action to adopt all of the changes in Chapter 17 will be held at 11 a.m. December 27, 2016.

Electronic Death Registration System (EDRS)

Melissa Bird, Chief of the Iowa Department of Public Health's Bureau of Health Statistics, and Jenny Evans, Project Manager, provided an overview on pending updates in the EDRS, and answered questions concerning the performance of the system.

Report on Subcommittee to Study Sexual Orientation Change Efforts

The Board of Medicine's subcommittee, chaired by Ronald Cheney, D.O., concluded that a specific rule prohibiting an Iowa-licensed physician from engaging in conversation therapy on patients under age 18 is not necessary at this time. Existing administrative rules provide a process for the Board to review the competency and conduct of an Iowa-licensed physician, and national standards of practice and ethics would be applicable to evaluate a physician's practice.

Dr. Cheney said the subcommittee recognizes the sensitivities of the issues involved and the potential difficulty or reluctance for the public to bring such complaints to the Board's attention. The subcommittee recommends the Board staff review mechanisms for the public, especially individuals under the age of 18, to register complaints about conversion therapy practices by Iowa-licensed physicians.

On a motion by Ronald Kolgraff, M.D., seconded by Diane Cortese, the Board approved the report from the subcommittee established to study sexual orientation change efforts, as presented.

Report on Subcommittee working with Board of Psychology

Charles Wadle, D.O., chair of the Board of Medicine's subcommittee on psychologist prescribing, gave an update on a new law that will allow certain psychologists to prescribe psychotropic medicines. Subcommittees of the Boards of Medicine and Psychology met on October 17, 2016, to draft administrative rules to implement the new law. The subcommittees will meet again on November 28, 2016.

Supervision of physician assistants update

Mr. Nebel briefed the Board on the status of the Board of Physician Assistants' actions to adopt an identical rule to 653 IAC 21.4 - Specific Minimum Standards for Appropriate Supervision of a Physician Assistant. He reported that the Board of Physician Assistants on October 19 determined not to adopt the identical rule adopted by the Board of Medicine, but to pursue its own rule on appropriate supervision of a physician assistant. The rule adopted by the Board of Medicine had been approved by subcommittees of the Boards of Medicine and Physician Assistants.

Interstate Medical Licensure Compact

Mark Bowden and Diane Clark, Iowa's commissioners for the Interstate Medical Licensure

Compact Commission attended a commission meeting in Kansas City, KS, on October 3. The commission is working on technology and administrative rules for the issuance of expedited licenses in early 2017. The commission's next meeting is a teleconference call on November 7, 2016.

Pennsylvania enacted the compact on October 26, making it the 18th state to join the interstate agreement. Compact legislation is being considered in other states this fall, and more states are expected to take it up in the 2017 legislative session. The compact creates an expedited process for qualified physicians seeking medical licenses in multiple states.

2017 Legislation

Mr. Bowden encouraged Board members to begin identifying the priorities for the 2017 legislative session. Any legislation offered by the Board must be filed with the Legislative Services Agency by November 28, 2016.

Judicial review of Board cases and related cases

Julie Bussanmas, Assistant Attorney General, briefed the Board on four cases under judicial review in district and appellate courts:

- Rabi v. BOM (# 2) (challenging contested case decision) Brief has been filed on Board's behalf asking the court to affirm the Board's decision. Oral argument was held on July 14, 2016. Decision issued affirming the Board's discipline decision.
- Rabi v. BOM (Iowa Supreme Court) Rabi filed a notice of appeal challenging the District Court decision listed in No. 1 above.
- Risk v. BOM (challenging Board's denial of his request for rehearing) –Supreme Court appeal challenging the district court's order affirming Board's order. Case has been fully briefed and we are awaiting notice of oral argument.
- Fleming v. BOM, No. 14-0975 The Court of Appeals issued a decision affirming the Board's discipline of Dr. Fleming. He has filed a request for rehearing. Awaiting Court's ruling. Denied. Fleming filed a case in U.S. Court in the Northern District of Iowa which was dismissed. He has appealed that decision to the Eighth Circuit U.S. Court of Appeals.

Board Member Education: Board members' participation on contested case hearing panels

Kent Nebel, Director of Legal Affairs, discussed the following items with the Board:

- How hearing dates are determined
- Reserved hearing date schedule
- Alternates only involved if a quorum of the Board is not available
- Composition of a hearing panel

Federation of State Medical Boards (FSMB)

Mr. Bowden reported that the FSMB is accepting nominations for members for the federation's board of directors and the nominations committee. He said applications are available on the federation's website.

Iowa Physician Health Committee (IPHC) update

Amy Van Maanen, coordinator of the Iowa Physician Health Program (IPHP), presented the Board with statistics and an update on the program as well as the IPHC's recommendations for reappointments of Ray Harre, M.D., and Sasha Khosravi, D.O., to the committee. Drs. Harre and Khosravi are completing their second three-year terms on the committee and are eligible for reappointment for one more three-year term.

On a motion by Kyle Ulveling, M.D., seconded by Nicole Gilg Gachiani, M.D., the Board approved the recommendations of reappointments of Ray Harre, M.D. and Sasha Khosravi, D.O., as recommended.

Correspondence, reports & articles

- 1 in 2 Physicians Demoralized HealthLeaders Media News, September 21, 2016.
- Physicians Foundation Survey & Graphic
- Doctors beat online symptom checkers in diagnosis contest, Reuters Health, October 12, 2016
- Physician Burnout Can Be Reduced by Targeted Interventions, Medscape Medical News, October 11, 2016

Committee Reports

On a motion by Kyle Ulveling, M.D., seconded by Ronald Cheney, D.O., the Board approved the Licensure committee report as presented.

On a motion by Ronald Cheney, D.O., seconded by KellyAnn Light-McGroary, M.D., the Board approved the Monitoring committee report as presented in closed session Thursday, October 27, 2016.

On a motion by KellyAnn Light-McGroary, M.D., seconded by Ronald Cheney, D.O., the Board approved the screening committee report as presented.

At 11:08 a.m., on a motion by Kyle Ulveling, M.D., seconded by Nicole Gilg Gachiani, M.D., all members present voted to meet in closed session, pursuant to Iowa Code Sections 21.5(1) "a," "d," and "f" for the purposes of reviewing investigative reports and other investigative material and discussing whether to initiate licensee disciplinary investigations or proceedings. Ronald Cheney, D.O., Diane Clark, Diane Cortese, Nicole Gilg Gachiani, M.D., Ronald Kolegraff, M.D., KellyAnn Light-McGroary, M.D., Mary Jo Romanco, Kyle Ulveling, M.D., and Charles Wadle, D.O., all voted aye in a roll call vote to approve the motion.

These minutes were prepared by Secretary 3 Chrissy Greco and Administrative Assistant 2 Kari Rolls.